

Minutes of Meeting
BOARD FOR CONTRACTORS
INFORMAL FACT-FINDING CONFERENCES
April 20, 2004, 2004 (9:00 a.m.)

The Board for Contractors convened in Richmond, Virginia, for the purpose of holding Informal Fact-Finding Conferences pursuant to the Administrative Process Act.

Ruth Ann Wall, Board member, presided. No other Board members were present.

Jennifer Kazzie appeared for the Department of Professional and Occupational Regulation.

The conferences were recorded by Inge Snead & Associates, LTD. and the Summaries or Consent Orders are attached unless no decision was made.

Disc = Disciplinary Case
RF = Recovery Fund Claim
Trades = Tradesmen Application

C = Complainant/Claimant
R = Respondent/Regulant
W = Witness
Atty = Attorney

Participants

- | | |
|--|---|
| 1. Earl G. Bailey
t/a Bailey S. Custom Builders
File Number 2003-01218 (Disc)
No Decision Made | Bailey – R (by telephone)
Larry Hooper – C |
| 2. John Weeks
t/a Weeks Construction
File Number 2003-02662 (Disc) | None |
| 3. SMC Carpentry Inc.
File Number 2002-02887 (Disc) | None |
| 4. George Nolton
t/a Affordable Painting
File Number 2002-02850 (Disc) | Nolton – R
Robert Gould – W |
| 5. George Nolton
t/a Affordable Painting
File Number 2004-01842 (Disc) | Nolton – R
Robert Gould - W |
| 6. George B Harris
File Number 2002-02826 (Disc) | None |

TRADESMAN

The meeting adjourned at 1:45 p.m.

BOARD FOR CONTRACTORS

Mark D. Kinser, Chairman

Louise Fontaine Ware, Secretary

COPY TESTE:

Custodian of Records

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
BOARD FOR CONTRACTORS**

**RE: JOHN H. WEEKS
T/A WEEKS CONSTRUCTION
LICENSE NUMBER: 2701 034827**

FILE NUMBER: 2003-02662

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on April 20, 2004 at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to John H. Weeks, t/a Weeks Construction, on February 13, 2004. The following individuals participated at the conference: Jennifer Kazzie, Staff Member; and Ruth Ann Wall, presiding Officer. Neither Weeks nor anyone on his behalf attended the IFF.

Background

On April 4, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Dr. Ronald L. G. Bonheur (Bonheur) regarding a contract entered into with John H. Weeks (Weeks), t/a Weeks Construction.

On June 1, 2002, Bonheur entered into a contract with Weeks, in the amount of \$58,000.00, to construct a 26' x 24' sunroom addition at 7415 Gleneagles Road, Norfolk, Virginia, and paid Weeks \$11,600.00 by check.

On June 10, 2002, Weeks commenced work. On June 12, 2002, Weeks obtained building permit number 02-00006446 for the work to be performed at the subject property.

On September 27, 2002, Bonheur paid Weeks \$11,600.00 by check. On December 23, 2002, Bonheur paid Weeks \$11,600.00 by check. On January 29, 2003, Bonheur paid Weeks \$11,600.00 by check. On February 26, 2003, Bonheur paid Weeks \$5,800.00 by check.

Summation of Facts

1. The contract used by Weeks in the transaction failed to contain subsections: (d) a "plain-language" exculpatory clause concerning events beyond the control of the contractor and a statement explaining that delays caused by such events do not constitute abandonment and are not included in calculating time frames for payment or performance, (f) disclosure of the cancellation rights of the parties, and (h) contractor's address, license expiration date, class of license, and classification or specialty services.
2. The contract specified "work to be performed under this Contract shall be commenced on or before June 10, 2002 (year) and shall be substantially completed on or before Sept. 10, 2002 (year)."
3. Weeks failed to comply with the terms of the contract.
4. On February 25, 2003, Weeks left the project. As of March 30, 2003, Weeks failed to complete the following work:
 - Completion of the exterior such as finishing the masonry around the side exterior entrance door;
 - Doors and rollout drawers for the crawlspace;
 - Installation of the exterior electrical hardware, guttering, etc.;
 - Entire interior drywall and plastering;
 - Hardwood flooring;
 - Installation of a non-vented fireplace and mantle;
 - Construction of pocket doors to connect to interior central hallway;

- Construction of an opening (passageway) from the kitchen;
- Removal of windows and installation of a pass-through with counter;
- Electrical work completion;
- Telephone receptacles/outlets and wiring;
- Installation of lighting fixtures and two fans;
- Electrical receptacle hardware;
- Ceramic flooring for the hallway;
- Interior French doors for the sunroom with framing;
- Closet door with framing;
- Hallway door with framing;
- Door to the garage replaced;
- Hardware installed on the exterior French doors and side exterior doors;
- Replacement of kitchen counter;
- Removal of designated kitchen cabinets;
- Installation of designated new kitchen cabinets;
- Repair of damage to bathroom wall and tiling and ceiling during construction; and
- Removal of all construction debris from the grounds.

5. Between February 26, 2003 and May 5, 2003, Bonheur called Weeks approximately thirty times in an effort to have them complete the subject work but Bonheur did not receive a response from Weeks.

6. On March 30, 2003, Bonheur sent Weeks a certified letter requesting Weeks contact Bonheur regarding the incomplete work. Bonheur did not receive a response from Weeks.

7. On April 22, 2003, Bonheur received an estimate from American Quality Enterprises, in the amount of \$64,189.29, to complete the subject project.

8. On May 9, 2003, Bonheur sent Weeks a second certified letter requesting Weeks contact Bonheur regarding the incomplete work. Bonheur did not receive a response from Weeks.

9. On November 14, 2003, in the Norfolk General District Court, Bonheur was awarded a \$14,999.00 judgment against Weeks Construction. The judgment was based on "improper & dishonest conduct as contractor on home addition."

10. As of January 8, 2004, Weeks failed to satisfy the judgment awarded to Bonheur.

11. On April 18, 2003, Investigator Wayne J. Ozmore, Jr., the Board's agent, made a written request to Weeks at the address of record of 2532 Ballahack Road, Chesapeake, Virginia, 23322, requesting a written response and supporting documents to the complaint filed with the Board. The Board's agent requested the documents be received by May 5, 2003.

12. On July 16, 2003, approximately 10:00 a.m., the Board's agent attempted to contact Weeks by telephone at (757) 421-3275 to determine if Weeks planned on providing a written response to the complaint. The Board's agent received the following recorded message: "You have reached a number that is disconnected or is no longer in service."

13. On January 5, 2004, approximately 2:32 p.m., the Board's agent attempted to contact Weeks by telephone at (757) 421-3275 to determine if Weeks planned on providing a written response to the complaint. The Board's agent received the following recorded message: "You have reached a number that is disconnected or is no longer in service."

14. On January 8, 2004, the Board's agent received an address certification that mail was delivered to Weeks at 2532 Ballahack Road, Chesapeake, Virginia 23322.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(9) (Effective September 1, 2001)

Weeks' failure to make use of a written contract which contains the minimum provisions specified in the Board's Regulations is a violation of Board Regulation 18 VAC 50-22-260(B)(9). Therefore, I recommend that a monetary penalty of \$500.00 be imposed.

Count 2: 18 VAC 50-22-260(B)(15) (Effective September 1, 2001)

Weeks' failure to comply with the terms in the contract is a violation of Board Regulation 18 VAC 50-22-260(B)(15). Therefore, I recommend that a monetary penalty of \$500.00 be imposed.

Count 3: 18 VAC 50-22-260(B)(15) (Effective September 1, 2001)

Weeks' failure to complete the work contracted for is a violation of Board Regulation 18 VAC 50-22-260(B)(15). Therefore, I recommend that a monetary penalty of \$500.00 be imposed.

Count 4: 18 VAC 50-22-260(B)(7) (Effective January 1, 2003)

Weeks' action of engaging in improper or dishonest conduct in the practice of contracting, as determined by the Norfolk General District Court, is a violation of Board Regulation 18 VAC 50-22-260(B)(7). Therefore, I recommend that a monetary penalty of \$1,000.00 be imposed along with revocation of Weeks' license.

Count 5: 18 VAC 50-22-260(B)(28) (Effective January 1, 2003)

Weeks' failure to satisfy the judgment awarded to Bonheur in the Norfolk General District Court is a violation of Board Regulation 18 VAC 50-22-260(B)(28). Therefore, I recommend that a monetary penalty of \$500.00 be imposed.

Count 6: 18 VAC 50-22-260(B)(13) (Effective January 1, 2003)

Weeks' failure to respond to an investigator seeking information in the investigation of a complaint is a violation of Board Regulation 18 VAC 50-22-260(B)(13). Therefore, I recommend that a monetary penalty of \$500.00 be imposed.

By:

Ruth Ann Wall
Presiding Officer
Board for Contractors
Date: _____

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2701 034827 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION**

BOARD FOR CONTRACTORS

**RE: SMC CARPENTRY INC.
LICENSE NUMBER: 2705 066803**

FILE NUMBER: 2002-02887

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on April 20, 2004 at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Michael Snyder of SMC Carpentry, on February 10, 2004. The following individuals participated at the conference: Jennifer Kazzie, Staff Member; and Ruth Ann Wall, presiding Officer. No one on behalf of SMC Carpentry, Inc. attended the IFF.

Background

On March 25, 2002, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Michael and Suzanne Terwilliger (the Terwilligers) regarding a contract entered into with SMC Carpentry Inc. (SMC).

On November 8, 2001, the Terwilligers received a written proposal from SMC, in the amount of \$17,650.00, to finish a basement.

On December 8, 2001, the Terwilligers entered into a contract with SMC, in the amount of \$15,002.50, to finish the basement at 46 Willow Glen Court, Stafford, Virginia.

On December 10, 2001, Michael Snyder (Snyder) entered into a stock purchase agreement with Victor DeBord (DeBord) and SMC Carpentry Inc. to purchase all stock in SMC Carpentry Inc.

In early January 2002, SMC commenced work.

On December 19, 2003, a review of the licensing records of the Board for Contractors revealed SMC Carpentry Inc. was issued Class A Contractor's license number 2705050745 on December 8, 1999. The records further revealed license number 2705050745 was terminated on November 27, 2001.

On December 19, 2003, a review of the licensing records of the Board for Contractors revealed SMC was issued Class C Contractor's license number 2705066803 on January 10, 2002, as a corporation.

Summation of Facts

1. SMC failed to obtain a Class B license to perform work in excess of the \$7,500.00 limit of Class C license.
2. The contract specified "Contractors shall, at its own expense, obtain all permits, necessary for the work to be performed."

3. On February 1, 2002, SMC submitted a building permit application for the basement work to be performed at the subject property.
4. On February 13, 2002, the County of Stafford issued building permit number 220547 for the contracted work at the subject property.
5. SMC failed to obtain the building permit prior to commencement of work.
6. The contract specified "The work to be performed under this contract shall be commenced on or before Jan 02-02 and shall be completed on or before Feb 02-02."
7. As of February 1, 2002, SMC had completed minor electric, plumbing, and framing work.
8. On February 1, 2002, the Terwilligers contacted SMC regarding why the work was not complete and when the work would be completed. SMC told the Terwilligers the job would be completed shortly and apologized for not completing the project on time.
9. As of March 8, 2002, SMC had not completed the project.
10. On March 11, 2002, SMC requested the Terwilligers pay an additional \$2,000.00 for extra work performed. SMC estimated the extra work would cost \$4,100.00 and offered the Terwilligers a reduced cost of \$2,000.00.
11. SMC failed to make use of written change orders for a modification to the completion date as stated in the original contract and for modifications of the cost and scope of the work to be performed.
12. On March 8, 2002, the Terwilligers attempted to contact SMC regarding the unfinished work. On March 11, 2002, the Terwilligers and SMC conducted a walk through inspection of the unfinished work and repairs needed. The Terwilligers requested SMC complete the work within 2 ½ weeks.
13. On March 11, 2002, SMC requested the Terwilligers pay an additional \$2,000.00 for the extra work performed by SMC. The Terwilligers refused to pay any additional money. On March 11, 2002, SMC left the job.
14. The Terwilligers made several attempts to contact SMC about honoring the contract; however, SMC failed to respond.
15. As of March 25, 2002, SMC failed to complete the work contracted for.
16. On December 19, 2003, a review of the State Corporation Commission records revealed SMC Carpentry Inc. was terminated as a corporation on December 1, 2003.

17. SMC failed to obtain a new license within thirty (30) days of the change in the business entity.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(27) (Effective September 1, 2001)

SMC's failure to obtain a Class B license to perform work in excess of the \$7,500.00 limit of a Class C license is a violation of Board Regulation 18 VAC 50-22-260(B)(27). Therefore, I recommend that a monetary penalty of \$250.00 be imposed.

Count 2: 18 VAC 50-22-260(B)(6) (Effective September 1, 2001)

SMC's failure to obtain a building permit prior to the commencement of work constitutes misconduct in the practice of contracting and is a violation of Board Regulation 18 VAC 50-22-260(B)(6). Therefore, I recommend that a monetary penalty of \$250.00 be imposed.

Count 3: 18 VAC 50-22-260(B)(31) (Effective September 1, 2001)

SMC's failure to make use of written change orders, signed by both the consumer and the licensee or his agent, for modifications to an existing contract is a violation of Board Regulation 18 VAC 50-22-260(B)(31). Therefore, I recommend that a monetary penalty of \$500.00 be imposed.

Count 4: 18 VAC 50-22-260(B)(15) (Effective September 1, 2001)

SMC's failure to complete the work contracted for and/or to comply with the terms of the contract is a violation of Board Regulation 18 VAC 50-22-260(B)(15). Therefore, I recommend that a monetary penalty of \$500.00 be imposed.

Count 5: 18 VAC 50-22-210 (Effective January 1, 2003)

SMC's failure to obtain a new license within 30 days of the change in the business entity is a violation of Board Regulation 18 VAC 50-22-210. Therefore, I recommend that a monetary penalty of \$250.00 be imposed.

By:

Ruth Ann Wall
Presiding Officer
Board for Contractors
Date: _____

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705 066803 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

COMMONWEALTH OF VIRGINIA DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

BOARD FOR CONTRACTORS

**RE: GEORGE R. NOLTON
T/A AFFORDABLE PAINTING
LICENSE NUMBER: 2705 059209**

FILE NUMBER: 2002-02850

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on April 20, 2004 at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to George R. Nolton, t/a Affordable Painting, on February 11, 2004. The following individuals participated at the conference: George R. Nolton, Respondent; Robert Gould, Witness; Jennifer Kazzie, Staff Member; Ruth Ann Wall, Presiding Officer.

Background

On March 22, 2002, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Frances Sokolowski (Sokolowski) regarding a contract entered into with George Raymond Nolton (Nolton), t/a Affordable Painting.

On February 2, 2002, Sokolowski entered into a contract with Nolton, in the amount of \$2,600.00, to paint interior walls at 3261 Mountain Laurel Loop, Dumfries, Virginia.

Sokolowski entered into a verbal agreement with Nolton, in the amount of \$120.00, to install two ceiling fans and to caulk.

Summation of Facts

1. The contract used by Nolton in the transaction failed to contain subsections: (e) statement of assurance regarding local requirements for building permits, inspections and zoning, (f) disclosure of cancellation rights, and (h) the contractor's address, license number, expiration date, class of license/certificate, and classification or specialty services.
2. Nolton installed two ceiling fans and caulked. Nolton failed to use a written change order for a modification to the cost and scope of the original contract.
3. The contract specified "Ben More (sic) 2 coats."
4. On February 12, 2002, Nolton began painting. Nolton failed to apply two coats of Benjamin Moore Paint, as agreed in the written contract. On February 19, 2002, Nolton left the project.
5. Nolton promised to return on March 1, 2002, to correct items. On March 1, 2002, Nolton failed to return as promised. Sokolowski made several attempts to contact Nolton; however, Nolton failed to respond to Sokolowski. As of March 20, 2002, Nolton failed to return to complete the work.
6. On February 2, 2002, Sokolowski paid Nolton \$1,000.00 by check. On February 19, 2002, Sokolowski paid Nolton \$1,720.00 by check.
7. As of March 20, 2002, Nolton failed to return money received for work not performed or performed only in part.
8. On April 3, 2002, Investigator Morgan T. Moore, the Board's agent, made a written request to Nolton at the address of record of P.O. Box 778, Dumfries, Virginia 22026, requesting a written response and supporting documents to the complaint filed with the Board. The Board's agent requested the documents be received by April 19, 2002. As of July 11, 2002, Nolton refused or failed to respond to the Board's agent's request.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(9) (Effective September 1, 2001)

Nolton's failure to make use of a written contract which contains the minimum provisions specified in the Board's Regulations is a violation of Board Regulation 18 VAC 50-22-260(B)(9). Therefore, I recommend that a monetary penalty of \$100.00 be imposed.

Count 2: 18 VAC 50-22-260(B)(31) (Effective September 1, 2001)

Nolton's failure to obtain written change orders, signed by both the consumer and the licensee or his agent, to an already existing contract is a violation of Board Regulation 18 VAC 50-22-260(B)(31). Therefore, I recommend that a monetary penalty of \$100.00 be imposed.

Count 3: 18 VAC 50-22-260(B)(15) (Effective September 1, 2001) (Nolton's failure to complete the work contracted for)

During the IFF, no information was presented to dispute Nolton's assertion that there were two coats of paint applied to the walls, ceilings and doors. Therefore, I recommend that Count 3 be closed with a finding of no violation.

Count 4: 18 VAC 50-22-260(B)(16) (Effective September 1, 2001) (Nolton's failure to return funds paid, for which work is either not performed or performed only in part)

During the IFF, there was no evidence that the work was not completed. Therefore, Nolton was not required to refund any monies. Therefore, I recommend that Count 4 be closed with a finding of no violation.

Count 5: 18 VAC 50-22-260(B)(13) (Effective September 1, 2001)

Nolton's failure to respond to an investigator seeking information in the investigation of a complaint filed with the board is a violation of Board Regulation 18 VAC 50-22-260(B)(13). Therefore, I recommend that a monetary penalty of \$100.00 be imposed.

By:

Ruth Ann Wall
Presiding Officer
Board for Contractors
Date: _____

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705 059209 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION**

BOARD FOR CONTRACTORS

**RE: GEORGE R. NOLTON
T/A AFFORDABLE PAINTING
LICENSE NUMBER: 2705 059209**

FILE NUMBER: 2004-01842

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on April 20, 2004 at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to George R. Nolton, t/a Affordable Painting, on February 11, 2004. The following individuals participated at the conference: George R. Nolton, Respondent; Robert Gould, Witness; Jennifer Kazzie, Staff Member; and Ruth Ann Wall, Presiding Officer.

Background

On October 17, 2000, George Raymond Nolton, a.k.a. Raymond Nolton, a.k.a Raymond George Nolton (Nolton), t/a Affordable Painting, submitted an application to the Board for Contractors for a Class C Contractor's license. Nolton was listed as the Qualified Individual and Responsible Management.

According to the application, Nolton answered "NO" to question 25, which asked: "Has your business, Designated Employee, Qualified Individuals, or Responsible Management been convicted in any jurisdiction of any felony?" and "Has your business, Designated Employee, Qualified Individuals, or Responsible Management been convicted in any jurisdiction of any misdemeanor within the last three years?" On October 25, 2000, Nolton signed the application and certified the answers were true.

On October 30, 2000, Nolton was issued Class C Contractor's license number 2705059209.

Summation of Facts

1. On August 6, 1998, in the Circuit Court of Prince William County, Nolton pleaded guilty and was convicted of Failure to Comply, a Misdemeanor, in violation of § 19.2-306 of the Code of Virginia. No appeal is pending and the time for appeal has lapsed.
2. On August 10, 1998, in the Circuit Court of Prince William County, Nolton pleaded guilty and was convicted of Public Nuisance, a Felony, in violation of § 48-2 of the Code of Virginia. No appeal is pending and the time for appeal has lapsed.
3. On May 24, 1999, in the Circuit Court of Prince William County, Nolton pleaded guilty and was convicted of Uttering, a Felony, in violation of § 18.2-172 of the Code of Virginia. No appeal is pending and the time for appeal has lapsed.
4. On November 23, 1999, in the Circuit Court of Stafford County, Nolton pleaded guilty and was convicted of Grand Larceny, a Felony, in violation of § 18.2-95 of the Code of Virginia. No appeal is pending and the time for appeal has lapsed.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(2) (Effective May 1, 1999) (FOUR VIOLATIONS)

Nolton's actions of furnishing substantially inaccurate or incomplete information to the board in obtaining, renewing, reinstating or maintaining a license is a violation of Board Regulation 18 VAC 50-22-260(B)(2). Therefore, I recommend that a monetary penalty of \$250.00 be imposed for each violation.

I also recommend the Board waive imposition of the monetary penalties if Nolton successfully completes the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

By:

Ruth Ann Wall
Presiding Officer
Board for Contractors
Date: _____

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705 059209 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
BOARD FOR CONTRACTORS**

**RE: GEORGE BRIAN HARRIS
LICENSE NUMBER: 2710 007774**

FILE NUMBER: 2002-02826

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on April 20, 2004 at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to George B. Harris on February 10, 2004. The following individuals participated at the conference: Jennifer Kazzie, Staff Member; and Ruth Ann Wall, Presiding Officer. Neither Harris, nor anyone on his behalf, appeared at the IFF.

Summation of Facts

1. On July 23, 2001, Forrest Unrath (Unrath) entered into a contract with George Brian Harris (Harris), in the amount of \$3,250.00, to install a 2 ton heat pump, duct work, and a humidifier at Route 1, Box 545, Columbia, Virginia 23038.
2. On June 13, 2002, a review of the licensing records of the Board for Contractors revealed Harris was issued Master HVAC Tradesman license number 2710007774. The records further revealed Harris applied for a Class C Contractor's license twice; however, a Class C Contractor's license was not issued to Harris as of June 11, 2002.
3. On or about August 6, 2001, Harris began work at the Unrath residence. On or about August 7, 2001, Harris last performed work at the Unrath residence.
4. Harris failed to obtain a permit for the work performed, as required by Section 109.1.3 of the Virginia Uniform Statewide Building Code.

5. On May 20, 2002, in the Fluvanna County General District Court, Harris was found guilty and convicted of practicing contracting without holding a valid license, a misdemeanor, in violation of Section 54.1-111 of the Code of Virginia. No appeal is pending and the time for filing an appeal has elapsed.

Conclusion and Recommendation

Count 1: 18 VAC 50-30-190(1) (Effective July 7, 1999) to wit: § 54.1-1103 of the Code of Virginia

Harris' actions of entering into a contract in excess of \$1,000.00 without a Contractor's license is a violation of Tradesman Regulation 18 VAC 50-30-190(1). Therefore, I recommend that a monetary penalty of \$100.00 be imposed.

Count 2: 18 VAC 50-30-190(5) (Effective November 1, 2001)

Harris' failure to obtain the required permit constitutes misconduct in the practice of a trade and is a violation of Tradesman Regulation 18 VAC 50-30-190(5). Therefore, I recommend that a monetary penalty of \$100.00 be imposed.

Count 3: 18 VAC 50-30-190(11) (Effective November 1, 2001)

Harris' conviction, after initial licensure or certification, regardless of adjudication, in any jurisdiction of a misdemeanor relating to the practice of the profession, there being no appeal pending therefrom or the time of appeal having elapsed, is a violation of Tradesman Regulation 18 VAC 50-30-190(11). Therefore, I recommend that a monetary penalty of \$250.00 and license revocation be imposed.

By:

Ruth Ann Wall
Presiding Officer
Board for Contractors
Date: _____

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC

SUSPENSION OF LICENSE NUMBER 2710 007774 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

DRAFT